

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION III
1650 Arch Street
Philadelphia, Pennsylvania 19103**

February 15, 2000

SUBJECT: Technical Support Document - Adequacy Findings for the Mobile vehicle Emissions Budgets (the Budgets) in the Revised Phase II Plan Submitted by the State of Maryland for the Baltimore Ozone Nonattainment Area

FROM: Paul T. Wentworth, P.E.
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TO: Administrative Record for the
Adequacy Findings for the Budgets
in the Revised Phase II Plan for
Baltimore

THRU: Robert Kramer, Chief
Energy, Radiation and Indoor
Environment Branch (3AP23)

I. Administrative Requirements For Making Adequacy Findings

We have followed the process for determining the adequacy of the submitted SIP budgets in accordance with the November 3, 1999 EPA Memorandum from Merrylin Zaw-Mon entitled: "Guidance on Motor Vehicle Emissions Budgets in One-Hour Ozone Attainment Areas."

1. On December 3, 1999, the Maryland Department of the Environment (MDE) submitted its proposed revised Phase II Plan for the Baltimore Ozone Nonattainment Area to EPA for parallel processing as a State Implementation Plan (SIP) revision. The MDE's public comment period on the revised Phase II plan closed on December 13, 1999. The MDE formally submitted its revised Phase II plan as a SIP revision on December 21, 1999.

2. On December 21, 1999, a notice was posted on EPA's web site at <http://www.epa.gov/oms/traq>, for the purpose of opening EPA's 30-day public comment period on the adequacy of the budgets in the revised Phase II plan for the Baltimore Ozone Nonattainment Area. That notice also informed the public that the MDE had posted its Phase II SIP on its website. EPA's December 21, 1999 website notice also provided a link to and the address for the MDE website where interested members of the public could access the Phase II State Implementation Plan (SIP) submittal.

3. EPA's public comment period closed on January 20, 2000. Public comments were received from one commenter, the University of Maryland School of Law's Environmental Law Clinic on behalf of its client, the organization known as the 1000 Friends of Maryland.

4. Section II of this TSD, below, provides a summary of those comments and EPA's responses. This TSD will be an enclosure to the letter from EPA to MDE informing the State of our adequacy findings on its revised Phase II SIP. That letter and its enclosure, this TSD, will be posted on EPA's website at <http://www.epa.gov/oms/traq> once EPA has published the Federal Register notice as discussed in item 5., below.

5. We will publish a Federal Register notice announcing our adequacy findings. The effective date of the adequacy findings will be 15 days after the publication date of that Federal Register announcement notice.

II. Public Comments Received on the Mobile Vehicle Emissions Budgets (Budgets) of the Phase II Plan [Post 99 Rate of Progress (ROP) and Attainment Plan State Implementation Plan (SIP) Revisions] for the Baltimore Ozone Nonattainment Area

Comments were submitted by University of Maryland School of Law's Environmental Law Clinic, on behalf of its client, the 1000 Friends of Maryland. These comments were submitted to EPA via fax before the close of business on January 20, 2000 which was the last day of the public comment period on the budgets contained in the ROP (2002, and 2005) and attainment plans for the Baltimore area. The combination of these two post 99 ROP plans and the attainment plan are also referred to as the Phase II Plan for the Baltimore area. This comment period on the budgets was initiated by EPA posting the availability of these budgets on its website on December 21, 1999. The comments faxed on January 20, 2000 arrived via the mail on January 28, 2000. A copy of these comments in their entirety has been placed in the Administrative Record for this adequacy finding of the budgets contained in the Phase II Plan.

The comments submitted were not only on the adequacy of the budgets contained in the Phase II Plan for the Baltimore area but on the contents and approvability of the ROP plans (2002, and 2005) and the attainment plan as SIP revisions themselves. In addition, the comments submitted to EPA were also on the proposed 1998 Baltimore Regional Transportation Plan and 2000-2004 Transportation Improvement Program for the Baltimore area and the associated conformity analyses prepared by the Transportation Steering Committee (TSC) which is the Baltimore area's Metropolitan Planning Organization (MPO).

At this time, EPA is only considering and responding to those comments germane to the finding of adequacy of the budgets contained in the Phase II Plan for Baltimore. Comments related to whether or not EPA should approve or disapprove the ROP plans (2002 and 2005) and the attainment demonstration plan for the Baltimore area will be considered pursuant to and as part of the Agency's rulemakings on those plans as revisions to the Maryland SIP. EPA published a notice of proposed rulemaking (NPR) on the attainment demonstration SIP revision for the Baltimore area on December 16, 1999 (64 FR 70397). EPA intends to commence rulemaking on the ROP plans in the near future.

EPA must act on the adequacy of the submitted budgets in the ROP and attainment plans for conformity purposes. In EPA's December 21, 1999 announcement on its website of Maryland's submission of revised budgets for the ROP plans (2002, 2005) and the attainment plan (2005) for the Baltimore area, we indicated that we were seeking public comment on the adequacy of these budgets. The adequacy process is separate from the notice and comment rulemaking process conducted by EPA to approve or disapprove the ROP and attainment plans as SIP revisions. The rulemaking process to approve or disapprove these plans as SIP revisions involves approval of their associated control strategies and a more detailed examination of the technical analyses submitted by the state to demonstrate ROP and attainment. Therefore, EPA's adequacy findings are that submitted budgets are consistent with attainment, maintenance and/or ROP for conformity purposes. EPA's actual approval or disapproval of the budgets into the SIP occurs when we have completed our full rulemaking process on the relevant ROP or attainment plan and have either approved or disapproved it as a SIP revision. The adequacy process considers certain criteria specified in 40 CFR 93.118 in order to allow the use of these submitted budgets in conformity determinations while EPA is completing its formal review process to determine whether to approve the ROP and attainment plans as SIP revisions.

Therefore, we are deferring addressing those comments which are germane to the approvability of the ROP and attainment plans as required SIP revisions at this time rather than addressing them in the context of this TSD prepared in support of our adequacy findings on the budgets. We will address those comments in our upcoming rulemakings on the revised ROP plans and in our rulemaking on the attainment plan as SIP revisions.

As previously stated, comments were also submitted to EPA on the proposed 1998 Baltimore Regional Transportation Plan and 2000-2004 Transportation Improvement Program and Conformity Addendum prepared by the TSC. These comments are not germane to EPA's adequacy review of the budgets. As the Baltimore area's MPO, the TSC is to address these comments as part of its procedures to adopt the 1998 Baltimore Regional Transportation Plan and 2000-2004 Transportation Improvement Program prior to putting them before EPA and Federal Highway Administration/Federal Transit Administration for concurrence and approval, respectively.

Those comments submitted by the University of Maryland's Environmental Law Clinic regarding the adequacy of the budgets contained in the ROP and attainment plans for the Baltimore area submitted as SIP revisions by the Maryland Department of the Environment are summarized below with EPA's responses.

1. Sufficiency of Revised Budgets

Comment: The commenter asserts that Maryland has not shown that the revised budgets are consistent with ROP. The commenter also asserts that the proposed revision does not contain the requisite demonstration that the revised emissions budget will not threaten attainment and maintenance of the standard. The commenter opposes the use of the revised budgets until MDE affirmatively demonstrates that implementation of the revised budgets will not require additional reductions from other sources or transportation control measures to mitigate the increased

budgets. The commenter asserts that the revised budgets adversely affect ROP and attainment because Maryland has agreed that it must achieve additional reductions due to the increase in the budgets of the revised plan (resulting from updating them to reflect 1999 vehicle registration data) in addition to those identified in EPA's December 16, 1999, Notice of Proposed Rulemaking on the attainment plan.

Response: EPA agrees with the commenter that the revised budgets should not be declared adequate until those budgets are determined to be consistent with ROP.

Maryland's SIP revision did not show in great detail that the revised budgets are consistent with the original demonstration of ROP in the Phase II plan. However, MDE, working with EPA, has recalculated and analyzed the impacts of the revised emissions budgets on the ROP for 2002 and 2005, using information and other documentation as provided in its Phase II SIP. The MDE submitted its recalculation and analysis to EPA on February 15, 2000. By analyzing the recalculation of the mobile emissions control measures, the anticipated mobile source emissions growth in the ROP years, and the new budgets, MDE has determined that sufficient emission reductions of nitrogen oxides (NOx) and volatile organic compounds (VOCs) exist to demonstrate that the budgets are consistent with ROP.

MDE's analysis of projected 2002 VOC and NOx emissions with the December 1999 revised budgets are still less than the 2002 target levels contained within the Phase II SIP. Thus, the revised 2002 budgets are still consistent with ROP. MDE's analysis of the projected VOC emissions for the 2005 milestone year do exceed the 2005 VOC target level as they are stated in the plan for ROP. However, the NOx emission reduction measures in the Baltimore ROP plan allow this ROP plan to show ROP for 2005 by increasing the amount of NOx substitution. That is, the 2005 ROP plan contains a surplus of NOx control relative to the NOx target level currently stated in the plan for ROP. This surplus in NOx emission reductions is adequate to enable the Phase II plan to demonstrate ROP for 2005 as well. Maryland's ROP plans for the Baltimore area were already using NOx substitution to demonstrate ROP for both 2002 and 2005. MDE's recalculation and analysis shows that by simply increasing the amount of NOx substitution, using the surplus NOx emission reductions already in the plan, the revised 2005 budgets remain consistent with the ROP demonstration in the Baltimore Phase II Plan. It is important to note that neither the December 1999 revised budgets, nor the measures or credits have to be changed; the plan simply uses more of the surplus NOx from the existing SIP submittal which was available for notice and comment. Therefore, EPA has determined that the revised budgets are consistent with ROP for purposes of finding those budgets adequate.

Maryland submitted its analysis to EPA on February 15, 2000. At the same time, Maryland committed to formally resubmit its Post 99 ROP plans to EPA as SIP revisions after having taken them back thorough public notice and hearing to inform the public of the increased use of NOx substitution used in the 2005 plan to demonstrate ROP.

EPA policy allows states, in certain circumstances, to substitute NOx emission reductions for VOC reductions for meeting the ROP requirements. The process for states to use to substitute NOx emission reductions for VOC emission reductions in ROP plans can be found in the EPA guidance documents: Guidance on the Post-1996 Rate-of-Progress Plan and the Attainment

Demonstration, dated January 1994; NOx Substitution Guidance, dated December 1993; a memorandum entitled, Clarification of Policy for Nitrogen Oxides (NOx) Substitution, from John S. Seitz dated August 5, 1994.

In certain cases, EPA concludes that it may determine a budget adequate even when the SIP includes commitments to additional measures. In a November 3, 1999, Memorandum, entitled, Guidance on Motor Vehicle Emissions Budgets in One-Hour Ozone Attainment Demonstrations, from Merrylin Zaw-Mon, Office of Mobile Sources, to Air Division Directors, Regions I-VI, EPA issued guidance regarding such commitments in the ozone attainment demonstrations for Baltimore and other areas. This guidance required for adequacy that States need to identify a list of potential control measures (from which a set of measures could be selected) that, when implemented, would be expected to provide sufficient additional emission reductions to meet the level of reductions that EPA has identified as necessary for attainment. These measures may not involve additional limits on highway construction beyond those that could be imposed under the submitted motor vehicle emissions budget. As long as the additional measures do not involve additional limits on highway construction, allowing new transportation investments consistent with the submitted budgets will not prevent the area from achieving the additional reductions that it needs for attainment. In this way, we can find the submitted budgets adequate.

In a December 17, 1999 letter to EPA, Maryland committed to adopt additional measures necessary to achieve the reductions needed for the attainment test as called for in our December 16, 1999 Notice of Proposed Rulemaking (64 FR 70397) and to account for emissions increases due to the revision of the attainment plan budgets. Maryland has provided a list of potential control measures that, when implemented, would be expected to provide sufficient additional emission reductions to meet the level of reductions as necessary for attainment. None of these measures place any additional limits on highway construction beyond those that could be imposed under the submitted motor vehicle emissions budget. None of these measures is a transportation control measure. In its December 17, 1999 letter to EPA, Maryland also recognized that in fulfilling its commitment to adopt and submit additional measures necessary to support the attainment test, it would also have to submit, as part of the SIP revision, revised motor vehicle budgets if the additional measures affect the motor vehicle emissions inventory.

Maryland submitted the Phase II plan to meet the ROP and attainment requirements of the Clean Air Act. Maryland is under no obligation at this time to submit a maintenance plan for the Baltimore ozone nonattainment area.

2. OTC NOx Budget Program

Comment: The commenter states that the NOx emissions reduction estimates asserted by MDE are unreliable as a result of the settlement agreements with two major utilities (PEPCO and BG&E) in Maryland.

The commenter recommends that EPA review these sources' NOx reductions projected for the years 2002 and 2005.

Response: MDE has reached settlement agreements with PEPCO and BG&E which indicate that the estimated NOx reductions projected for the years 2002 and 2005 will not be affected.

Maryland has provided copies of those agreements to EPA as they will be submitted to EPA for approval as SIP revisions along with Maryland's OTC NOx Budget Program. By the ozone season of the year 2002, under the terms of those settlement agreements, both utilities are required to be in compliance with the Maryland's NOx Budget Program under all circumstances.

3. Section 126 Petitions Granted by EPA for NOx Emissions Reductions

Comment: The commenter raises the issue that on December 17, 1999, EPA granted section 126 petitions filed by four States to reduce ozone through reductions in NOx emissions from other States, and that under those petitions, fifteen (15) facilities located in Maryland will have to reduce NOx emissions by a total of 19,466 tons by May 1, 2003. The commenter is concerned about the accountability of these reductions as compared to those assumed in the Phase II SIP. The commenter asserts that EPA's decision on the 126 petitions will clearly change state and Ozone Transport Group implementation schedules and should be addressed by the state prior to SIP approval.

Response: Maryland did not take credit in its Phase II plan for the reductions associated with the 126 petitions. The Phase II plan correctly assumes NOx reductions consistent with those called for by EPA's October 27, 1998 (63 FR 57356) Finding of Significant Contribution for Certain Cities in the Ozone Transport Assessment Group Region for Purposes of Reducing Regional Transport of Ozone, commonly referred to as the NOx SIP call. The NOx SIP call rule, while the subject of litigation, has neither been remanded nor vacated. Although the NOx SIP submittal date has been indefinitely stayed by a three-judge panel of the DC Circuit Court, the rule itself requiring emission reductions in 22 eastern states and the District of Columbia to be implemented by May 1, 2003, continues to be in effect. Therefore, EPA believes it is appropriate to allow states to continue to assume the reductions from the NOx SIP call in areas outside the local 1-hour modeling domains would be in place by that date. The Baltimore area's attainment date is consistent with that time frame. The fact that EPA has granted section 126 petitions does not remove the obligations of states subject to the NOx SIP call to reduce NOx emissions as called for in that rule.

4. National Architectural and Industrial Maintenance (AIM) Coatings Rule

Comment: The commenter asserts that Maryland's SIP revision relies on an EPA guidance memorandum from March 22, 1995 to calculate emission reductions associated with the AIM coatings control measure. The commenter asserts that the EPA memorandum was based on the proposed federal AIM regulation and that the final rule that was ultimately adopted did not produce the level of emission reductions estimated in the proposed rule and the March 22, 1995 memorandum. As a result, the credits claimed in the proposed SIP revision need to be

recalculated to reflect changes that resulted with the final adoption of the rule, specifically in the VOC content for certain coatings and extended compliance dates.

Response: EPA's March 22, 1995 memorandum allowed states to claim a 20% reduction in VOC emissions from the AIM coatings category in ROP plans based on the anticipated

promulgation of a national AIM coatings rule. In developing the ROP SIP for the Baltimore nonattainment area, Maryland relied on this memorandum to estimate emission reductions from the anticipated national AIM rule. EPA promulgated the final AIM rule in September 1998, codified at 40 CFR Part 59 Subpart D. In the preamble to EPA's final AIM coatings regulation, EPA estimated that the regulation will result in 20% reduction of nationwide VOC emissions from AIM coatings categories (63 FR 48855). The estimated VOC reductions from the final AIM rule resulted in the same as those estimated in the March 1995 EPA policy memorandum. In accordance with EPA's final regulation, Maryland has assumed a 20% reduction from AIM coatings source categories in its ROP plans. AIM coatings manufacturers, were required to be in compliance with the final regulation within one year of promulgation, except for certain pesticide formulations which were given an additional year to comply. Thus all manufacturers were required to comply, at the latest, by September 2000. EPA believes that all emission reductions from the AIM coatings national regulation will occur by 2002 and therefore are creditable in the Maryland ROP plans.

5. Nonroad Small Gasoline Engine Rule

Comment: The commenter asserts that emissions reductions credit claimed by Maryland in its revised Phase II Plan from Nonroad Small Gasoline Engines rule are based on an older 1994 EPA memorandum, rather than the estimations in the final rule was published in 1998.

Response: Please see the introductory discussion that precedes the list of comments and responses in this section of the TSD, above. As discussed, the process of making adequacy findings for budgets is separate from the detailed review of the technical analyses provided by a state when EPA is conducting rulemaking to approve or disapprove submitted ROP and attainment plans as SIP revisions. For purposes of making adequacy findings on these budgets, EPA has determined that Maryland's claimed emission reductions from the Nonroad Small Gasoline Engine Rule do not exceed the estimations of such reductions resulting from the implementation of the final federal rule.

6. Maryland's Surface Cleaning/Degreasing and Auto Refinishing Program

Comment: The commenter asserts that the emission reduction credits claimed by Maryland in the revised Phase II SIP from its regulations governing surface cleaning/degreasing & automotive refinishing are not supported by reliable data.

Response: Again, please see the introductory discussion that precedes the list of comments and responses in this section of the TSD, above. As discussed, the process of making adequacy findings for budgets is separate from the detailed review of the technical analyses provided by a state when EPA is conducting rulemaking to approve or disapprove submitted ROP and attainment plans as SIP revisions. For purposes of making adequacy findings on these budgets, EPA believes that the data used by MDE to calculate the reductions from the Maryland Surface Cleaning/Degreasing and Auto Refinishing Program is reliable and that the reductions as claimed are creditable.

III. Evaluation of the Budgets

Table 1 - The Budgets

Clean Air Act Requirement	Milestone Year	Mobile Vehicle Emissions Budget for NOx- Tons Per Day	Mobile Vehicle Emissions Budget for VOC- Tons Per Day
<u>Reasonable Further Progress</u>	<u>2002</u>	<u>112.6</u>	<u>54.0</u>
<u>Reasonable Further Progress</u>	<u>2005</u>	<u>104.1</u>	<u>48.6</u>
<u>Attainment</u>	<u>2005</u>	<u>104.1</u>	<u>48.6</u>

Table 2
Adequacy of the Budgets for the Phase II Attainment Plan Submitted for the Baltimore Ozone Nonattainment Area

Transportation Conformity Rule 40 CFR Part 93, § 93.118	Review Criteria	Was the Criterion Satisfied? If “Yes” How was this Criteria Satisfied? (Reference SIP Document/Comments if required)
Sec. 93.118(e)(4)(i)	Was the submitted revised plan endorsed by the Governor (or his or her designee) and subject to a State public hearing?	Yes. The submitted attainment demonstration was endorsed by the Governor (or his or her designee) and a public hearing was held.
Sec. 93.118(e)(4)(ii)	Before the attainment demonstration was submitted to EPA, did consultation among federal, State and local agencies occur; was full implementation plan documentation provided to EPA, and was EPA’s stated concerns, if any, addressed?	Yes. Consultation has occurred between all required federal, state and local agencies.
Sec. 93.118(e)(4)(iii)	Was the motor vehicle emissions budget(s) clearly identified and precisely quantified?	Yes.

Sec. 93.118(e)(4)(iv)	Is the motor vehicle emissions budget(s), when considered together with all other emission reductions, consistent with applicable requirements for attainment demonstrations?	EPA believes the budgets can be declared adequate based upon the commitments to additional measures made by Maryland. See the response to Comment 1 in Section II, above, under "Sufficiency of Revised Budgets."
Sec. 93.118(e)(4)(v)	Is the motor vehicle emissions budget(s) consistent with and clearly related to the emissions inventory and the control measures in the submitted attainment demonstration?	EPA believes that the budget can be declared adequate as long as the effects of Tier 2/Sulfur are not used to demonstrate conformity against these budgets. ¹ The budgets do not include EPA's Tier2/sulfur rule which will be in effect in 2005, but they do include all other controls in effect in 2005.
Sec. 93.118(e)(4)(vi)	Revisions to previously submitted attainment demonstrations: explain and document any changes to previously submitted budgets and control measures; impacts on point and area source emissions; any changes to established safety margins (see Sec. 93.101 for definition); and reasons for the changes (including the basis for any changes related to emission factors or estimates of vehicle miles traveled).	Yes. The plan explains that the budget changes are due to use of more recent fleet characteristics, to certain changes in travel demand model inputs, and to application of additional mobile source controls, namely, NLEV and the HDDE 2 gram standard.

¹ See 64 FR 70397, December 16, 1999 and Memorandum, "Guidance on Motor Vehicle Emissions Budgets in One-Hour Attainment Demonstrations," from Merrylin Zaw-Mon, Office of Mobile Sources, to Air Division Directors, Regions I-VI. November 3, 1999. Web site: <http://www.epa.gov/oms/transp/traqcong.html>.

Sec. 93.118(e)(5)	Did they provide and we review public comments and the State's responses to those comments with the submitted control strategy SIP?	Yes
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Table 3
Adequacy of the Budgets in the Phase II Post 1999 ROP Plans Submitted for the Baltimore Ozone Nonattainment Area

Transportation Conformity Rule 40 CFR Part 93, § 93.118	Review Criteria	Was the Criterion Satisfied? If "Yes" How was this Criteria Satisfied? (Reference SIP Document/Comments if required)
Sec. 93.118(e)(4)(i)	Was the submitted control strategy implementation plan endorsed by the Governor (or his or her designee) and subject to a State public hearing?	Yes. The submitted control strategy implementation plan was endorsed by the Governor (or his or her designee) and a public hearing was held.
Sec. 93.118(e)(4)(ii)	Before the control strategy implementation plan was submitted to EPA, did consultation among federal, State and local agencies occur; was full implementation plan documentation provided to EPA, and was EPA's stated concerns, if any, addressed?	Yes. Consultation has occurred between all required federal, state and local agencies.
Sec. 93.118(e)(4)(iii)	Were the motor vehicle emissions budgets clearly identified and precisely quantified?	Yes.

Sec. 93.118(e)(4)(iv)	Is the motor vehicle emissions budget(s), when considered together with all other emission reductions, consistent with applicable requirements for the control strategy implementation plan?	Yes. As explained in response to Comment 1 in Section II, above, under “Sufficiency of Revised Budgets” above, the plan has sufficient measures to achieve ROP with NOx substitution.
Sec. 93.118(e)(4)(v)	Is the motor vehicle emissions budget(s) consistent with and clearly related to the emissions inventory and the control measures in the submitted control strategy implementation plan?	Yes. That the 2005 ROP does not reflect EPA’s Tier 2/Sulfur rule is moot because the ROP budget need only be consistent with ROP and because EPA will prohibit the use of Tier 2/Sulfur in conformity determinations until the 2005 attainment budget is changed to include the Tier 2/sulfur rule. Once this occurs, the 2005 ROP budget will higher that the attainment budget and all conformity determinations for 2005 and later will be controlled by the attainment budget.
Sec. 93.118(e)(4)(vi)	Revisions to previously submitted control strategy implementation plan: explain and document any changes to previously submitted budgets and control measures; impacts on point and area source emissions; any changes to established safety margins (see Sec. 93.101 for definition); and reasons for the changes (including the basis for any changes related to emission factors or estimates of vehicle miles traveled).	Yes. The plan explains that the budget changes are due to use of more recent fleet characteristics, to certain changes in travel demand model inputs, and to application of additional mobile source controls, namely, NLEV in 2002 and 2005, and the HDDE 2 gram standard in 2005.

Sec. 93.118(e)(5)	Did they provide and we review public comments and the State's responses to those comments with the submitted control strategy SIP?	Yes
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Additional Issues : Tier 2 Considerations

The November 8, 1999 memorandum, "1-Hour Ozone Attainment Demonstrations and Tier 2/Sulfur Rulemaking" from Lydia Wegman, Office of Air Quality Planning and Standards and Merrilyn Zaw-Mon, Office of Mobile Sources and the December 16, 1999 Proposed Rule Making Notice for the Baltimore Ozone Nonattainment Area clearly indicates that if Tier 2 reductions are needed for demonstrating attainment, which is the case for Baltimore, we must include a condition in our adequacy finding that conformity determinations may not take credit for Tier 2 until the budgets of the SIP are revised to reflect Tier 2 benefits. EPA believes that the budgets do not need to be revised immediately to include Tier 2 benefits in order for us to find the budgets adequate. However, since the Tier 2 Rule is now final, without this condition, all the Tier 2 reductions could be used for increase in vehicle miles traveled above those already provided for in the SIP. The Tier 2 reductions needed for attainment would not be available. Therefore, we are including a condition in our adequacy finding which prohibits the use of Tier 2 emission reductions in conformity determinations until the budgets of the SIP are revised to reflect Tier 2 benefits.

IV. Recommendation - Based upon our review and evaluation of the revised Phase II plan submitted on December 3, 1999 (proposed) and on December 21, 1999 and the February 15, 2000 letter submitted by MDE, we recommend that the motor vehicle budgets contained in the Phase II Plan be found adequate.